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| APPLICATION NO.                          | FILING DATE | FIRST NAMED INVENTOR       | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------------|---------------------|------------------|
| 10/790,845                               | 03/03/2004  | Guerman Aronovich Pasmanik | 13592-2             | 2495             |
| 1059                                     | 7590        | 12/20/2005                 | EXAMINER            |                  |
| BERESKIN AND PARR                        |             |                            | LAVINDER, JACK W    |                  |
| 40 KING STREET WEST                      |             |                            |                     |                  |
| BOX 401                                  |             |                            |                     |                  |
| TORONTO, ON M5H 3Y2                      |             |                            |                     |                  |
| CANADA                                   |             |                            |                     |                  |
| ART UNIT                    PAPER NUMBER |             |                            |                     |                  |
| 3677                                     |             |                            |                     |                  |
| DATE MAILED: 12/20/2005                  |             |                            |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                              |                     |  |
|------------------------------|------------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>       | <b>Applicant(s)</b> |  |
|                              | 10/790,845                   | PASMANIK ET AL.     |  |
|                              | Examiner<br>Jack W. Lavinder | Art Unit<br>3677    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15,21-23,46 and 48-59 is/are pending in the application.
- 4a) Of the above claim(s) 12,48-51 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11,13-15,21-23,46 and 52-59 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/22 and 5/4/05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 7, 11, 15, 22, 46, 52-55, 57, 59 have been rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schreiber, 1333284.
3. Claims 1-4, 7-11, 13-15, 22, 23, 46, 52-55, 57 and 59 have been rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chioffe, 4249330.
4. Claim 56 has been rejected under 35 U.S.C. 102(b) as being anticipated by Chioffe, 4249330.

Chioffe discloses a ring-shaped body in cross section (12) or a second interpretation would be a ring-shaped body (12) with a large width dimension.

The ring shaped body positions a lens member diametrically opposite a set of markings (13).

5. Claims 1-4, 7, 10, 11, 15, 22, 46, 52-55, 57 and 59 have been rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lovegrove, 6536235.
6. Claims 1-2, 11, 14, 15, 22, 23, 46, 52, 53, 55, 57 and 59 have been rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brady, 2413541.
7. Claims 21 and 58 have been rejected under 35 U.S.C. 102(b) as being anticipated by Brady, 2413541.

Brady discloses a magnifying lens (3) for viewing the graphic (6). The use of a magnifier inherently locates the markings a distance less than the focal length of the lens in order to provide for magnification. The article by Wikipedia titled "Magnifying glass" describes just such an arrangement:

"A magnifying glass works by creating a magnified virtual image of an object behind the lens. The distance between the lens and the object must be shorter than the focal length of the lens for this to occur."

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 5 and 6 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegrove in view of Patton, 6624385.

Regarding claim 5, Lovegrove discloses placing an inscription, such as a favorite poem, phrase, design or other decorative element on the surface of the tablet 40 (col. 3, lines 35-38), but fails to disclose the size of the indicia.

Patton discloses etching indicia (text or numerals) onto a gemstone having a size of about 20 microns, which is within the claimed size range of 1 micrometer to 1 mm.

It would have been obvious to a person having ordinary skill in the art to size the indicia to a size within the claimed range in order to fit more indicia on the limited surface space. This allows the wearer to put more information onto the tablet.

Regarding claim 6, Lovegrove fails to discloses the indicia being made from pixels. The examiner takes official notice that the use of pixels to form indicia is old and well known. It would have been an obvious design choice to form the indicia from pixels since both solid line indicia and pixilated indicia perform the same function, equally as well as the other, of providing a visual mark on the tablet. Furthermore, the specification fails to disclose any criticality of using pixilated indicia in place of solid lined indicia.

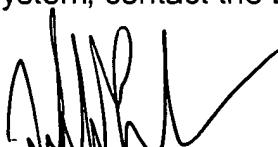
10. Applicant's election without traverse of species 1, claims 1-11, 13-15, 21-23, 46, and 52-59 in the reply filed on 10/17/05 is acknowledged.

11. Claims 12 and 48-51 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/17/05.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack W Lavinder  
Primary Examiner  
Art Unit 3677

12/19/05